



POLICE DEPARTMENT

February 3, 2009

MEMORANDUM FOR: Police Commissioner

Re: Sergeant Saiheme Billings
Tax Registry No. 905571
Brooklyn South Task Force
Disciplinary Case No. 84349/08

The above-named member of the Department appeared before me on December 1, 2008, charged with the following:

1. Said Sergeant Saiheme Billings, while assigned to Brooklyn South Task Force, while on-duty, in Kings County, on or about March 17, 2008, having become aware of an allegation of corruption or serious misconduct involving a member of service, did fail and neglect to notify his Commanding Officer and/or the Internal Affairs Bureau Command Center, in a timely fashion, to wit: said Sergeant, was informed that a member of service, identity known to the Department, had engaged in searches without legal cause and falsified affidavits and did thereafter fail and neglect to notify his Commanding Officer and/or the Internal Affairs Bureau Command Center until March 30, 2008, about the alleged misconduct. (*As amended*)

PG 207-21 Page 1 - 2 – ALLEGATIONS OF CORRUPTION AND SERIOUS MISCONDUCT AGAINST MEMBERS OF THE SERVICES

The Department was represented by Penny Bluford-Garrett, Esq., Department Advocate's Office, and the Respondent was represented by Philip Mellea, Esq.

The Respondent, through his counsel, entered a plea of Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

COURTESY • PROFESSIONALISM • RESPECT

DECISION

The Respondent, having pleaded Guilty, is found Guilty as charged.

SUMMARY OF EVIDENCE IN MITIGATION

The Respondent testified that he was appointed to the Department on February 25, 1994, and has held the rank of sergeant since September 2004. After working as a sergeant at the 70 Precinct, he was transferred to the Brooklyn South Task Force.

The Respondent testified that in mid-March 2008, inside the 61 Precinct Stationhouse, Police Officer Ramos approached him regarding the conduct of Police Officer Sidorsky. Ramos and Sidorsky were working together at this time.

The Respondent testified that Ramos told him that he “wanted to get out of the vehicle with” Sidorsky, i.e., he did not want to work with Sidorsky any more. Ramos said that Sidorsky was “making arrests that weren’t so good.” When the Respondent asked Ramos to specify, Ramos said that they were pulling over cars and finding drugs, but Ramos did not believe that the drugs had been found “legitimately.” Ramos did not give “particulars,” but related “generally” that they would do car stops for, e.g., “a brake light,” and Sidorsky “would toss the car. He would pretty much pull the person out of the car without provocation and go into the person’s pockets and find drugs,” then attest subsequently that the drugs were found in plain view.

The Respondent did not believe these allegations, and thought that Ramos “just didn’t like Sidorsky. . . . [H]e just didn’t like his style or whatever it was.” The Respondent believed that Ramos “wanted to get out of the car.” He said that “when people don’t want to ride, they embellish things when they don’t want to ride with people.”

The Respondent explained that Ramos's former partner, Hernandez, "was a pretty good veteran" and had been a Street Narcotics Enforcement Unit officer. Hernandez was "very articulate," "a very friendly type guy," and possessed a lot of experience making arrests. He was "really on top of his game. He knew codes for everything" and was a "very well-rounded officer."

Sidorsky, on the other hand, "came from a slower command" and had less experience. Sidorsky also had a stuttering problem and "was not a liked person" in the command. He was not "the friendliest guy," but made a lot of arrests, and the Respondent suspected that others were jealous, noting that the patrol area was not one where many arrests were made. "It was more crowd control, disorder," and summonses. The Respondent testified that prior to March 2008, Sidorsky was in his squad. They were "not at all, by any means," friendly outside work, and just had a "work relationship."

The Respondent testified that he told Ramos, "[Y]ou have to take that up with the lieutenant. I am not your supervisor, and I am not Officer Sidorsky's direct supervisor anymore." The Respondent also said to himself, "more or less, I will have to check it out even though I was supposed to report it, but I wanted to see beforehand." He noted that no other officers had made similar complaints. He testified that he had to wait for his regular days off (RDOs) to pass before he could speak to the lieutenant and other sergeants.

The Respondent said to himself, "I am going to check this out for myself and see if" Sidorsky "is pulling over cars illegally or pulling over cars and then doing any of the allegations" put forth by Ramos.

The Respondent testified that he went to a job in, he believed, the 61 Precinct where Sidorsky and Ramos had pulled over a vehicle. The area had a high incidence of driving while

intoxicated, so the officers under the Respondent's supervision were "looking for arrests." The Respondent testified that Sidorsky told him that "when he pulled the car over he smelled marijuana, and when he looked in the car the marijuana was on the dashboard" or console. The Respondent sent his driver over to the pulled-over vehicle, "not letting my driver know I was pretty much doing my own investigation." The Respondent asked his driver if he smelled marijuana in the car, and he said yes.

The Respondent stated, "At that point, it seemed legit to what" Sidorsky was saying. Ramos and Sidorsky did not argue about the arrest; Ramos "stayed quiet and Sidorsky did most of the talking." The Respondent testified that this "was my only pretty much interaction as far as doing any personal observations."

The Respondent testified that perhaps a week and a half later, he notified the Internal Affairs Bureau about the matter, "[m]aybe two weeks to see every boss come in." He was not sure if it was his first or second "run back." He told his delegate because he was working that day. The Respondent also told Sergeant Santiago, "his direct supervisor," that he was making a report to IAB "against him." He also spoke to Sergeant O'Leary. The Respondent reiterated at trial that he "didn't really believe it was true," and thought "he just wants to get out of the car with Officer Sidorsky."

The Respondent testified that IAB ruled Ramos' allegations to be unfounded. He denied that he intended to hide anything by waiting to inform IAB, noting, "I have no reason to. I have nothing to gain by it, nor to protect him."

On cross-examination, the Respondent testified that Ramos probably told him additional details, but he could not recall them. The Respondent recalled that Ramos told him he believed Sidorsky had lied on Criminal Court summonses and affidavits. Ramos told him about an

incident involving a deaf person, but the Respondent “really didn’t understand what he was saying.” Ramos said that they pulled him over and found drugs. Ramos might have said that he and Sidorsky argued over whether the deaf person, “who was found with marijuana in his possession,” should be arrested or given a summons. Ramos also told the Respondent that Sidorsky had pulled out his weapon during non-arrest situations.

The Respondent stated that he spoke to Sergeants Santiago and John O’Leary about the matter. The Respondent told Santiago that Ramos had approached him and told him that Sidorsky was pulling vehicles over for traffic infractions and illegally searching them for drugs. The Respondent asked Santiago if he knew anything or had seen anything. Santiago responded that he had not. The Respondent told John O’Leary the same thing, and John O’Leary’s response was also no. The Respondent told the Commanding Officer that Sidorsky had poor driving habits. The Respondent found this out from “everybody in the command. Every cop that has driven with him said he has bad driving habits.” The Respondent was informed by Sergeant Brian O’Leary that often, when Sidorsky would voucher property, his paperwork would not match the property he actually recovered. Brian O’Leary also said that Sidorsky would be missing paperwork many times.

The Respondent did not think that inquiring with other members about Sidorsky would possibly compromise the investigation because he “didn’t ask any of the people that he was with.” Instead, the Respondent said, he asked supervisors. The Respondent agreed that “tossing vehicles, improper searches, pulling out weapons on people in non-arrest situations, lying in Criminal Court affidavits,” was “pretty serious misconduct.” In the future, he said, he would immediately report it to IAB.

PENALTY

In order to determine an appropriate penalty, the Respondent's service record was examined. See Matter of Pell v. Board of Education, 34 N.Y.2d 222 (1974). The Respondent was appointed to the Department on February 25, 1994. Information from his personnel folder that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Respondent has been found Guilty, after pleading Guilty and testifying in mitigation of the penalty, of failing to report to IAB, "in a timely fashion," *Patrol Guide* § 207-21, an allegation of corruption or serious misconduct made by one Police Officer, Ramos, against another, Sidorsky. The Respondent stated that upon receiving Ramos' claims – that Sidorsky was illegally searching persons during vehicle stops and lying on Criminal Court paperwork – his first impression was that Ramos really did not want to "ride with" Sidorsky, i.e., work in the same patrol car, any longer, and that this was due to personality conflicts, not Sidorsky's misconduct. The Respondent testified that he decided to self-investigate Ramos' allegations by asking other supervisors about Sidorsky. Additionally, one time, while supervising patrol, the Respondent sent his driver over to a vehicle that Sidorsky and Ramos had pulled over. Sidorsky had told the Respondent he smelled marijuana, and the Respondent sent his driver to see if he smelled it. The driver said that he smelled marijuana as well. Approximately a week and a half to two weeks after Ramos first spoke to him, the Respondent made a notification to IAB of Ramos' claims about Sidorsky.

There is no evidence that the Respondent withheld the information from IAB in an effort to shield Ramos or Sidorsky. Nevertheless, one of the reasons for the reporting requirement is that IAB, and not command-level personnel, is best suited in terms of both insularity and

expertise in investigating allegations of this type. The perils of self-investigations are many. First, even if the Respondent was correct about Ramos not liking Sidorsky, that did not mean that the allegations were false. Second, contrary to the Respondent's testimony, the fact that he only asked fellow supervisors about Sidorsky would not necessarily have prevented Sidorsky from discovering the "investigation." The Respondent's actions here very well could have interfered with the investigation. Finally, although the Respondent's driver confirmed that the scent of marijuana could plainly be smelled inside a vehicle Sidorsky and Ramos had pulled over, Ramos' allegations went beyond improper car stops. Ramos also contended that the Respondent took out his weapon in non-arrest situations, and the Respondent found out from the other supervisors that there were problems with Sidorsky's property-voucher paperwork.

On summation, the Department argued for a penalty of 15 vacation days, citing two cases that resulted in pleas, *Disciplinary Cases Nos. 80515/04* and *80517/04*. Each of these members received penalties of 16 vacation days, but the Department did not give details of the cases beyond stating that the misconduct was failing to notify IAB or the Commanding Officer of corruption or serious misconduct, either "upon receiving an allegation" or "upon becoming aware" of it.

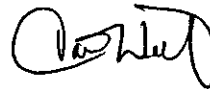
In *Disciplinary Case No. 79637/04*, a Captain in the Vice Enforcement Division was informed that two paintings found at the site of a wire room were labeled with a woman's name that was also the name of a Sergeant who had worked at the Vice Enforcement Division as well. The Captain decided to perform his own investigation, although he eventually contacted IAB. The trial commissioner recommended a penalty of 5 vacation days, noting as a mitigating factor the absence of a corrupt motive on the Captain's part. The Police Commissioner increased the penalty to 8 vacation days, stating that the Captain, "as a ranking officer, nevertheless failed to

take proper command supervisory actions, potentially compromising any resultant investigation.”

In *Disciplinary Case No. 77009/01*, a ten-year Police Officer responded to a traffic accident with no injuries and only property damage. The driver of the vehicle that collided into the second car presented documents stating that his vehicle was registered to the Patrolmen’s Benevolent Association. He was also informed by the second car’s occupants that the first driver (of the PBA’s car) was intoxicated. For failing to notify either IAB or his Commanding Officer of the potential misconduct of a Department member, the respondent was penalized 10 vacation days.

Based on the aforementioned cases, and taking into account the specific factors of this case, including the Respondent’s prior work record (see Confidential Memorandum, infra), the Court recommends a penalty of 10 vacation days.

Respectfully submitted,



David S. Weisel
Assistant Deputy Commissioner – Trials

APPROVED

MAY 07 2009

RAYMOND W. KELLY
POLICE COMMISSIONER

